

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ADRIAN DALE HAMILTON,

Plaintiff,

v.

UNIVERSITY OF TEXAS MEDICAL
BRANCH, et al.,

Defendants.

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Case No. 6:20-cv-534-JDK-KNM

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Adrian Dale Hamilton, proceeding pro se, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge K. Nicole Mitchell for findings of fact, conclusions of law, and recommendations for disposition.

On January 26, 2021, Judge Mitchell issued a Report recommending that Plaintiff's civil rights action be dismissed, without prejudice, for failure to exhaust administrative remedies. Docket No. 15. Judge Mitchell noted that Plaintiff's lawsuit complains of an incident on September 17, 2020, and the he signed his lawsuit on September 23, 2020, six days later. The Magistrate Judge determined Plaintiff could not have exhausted administrative remedies because he did not have sufficient time to do so. *Conklin v. Randolph*, 553 F.App'x 457 (5th Cir. 2014). Plaintiff received a copy of this Report on February 2, 2021 but has not filed objections.


This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and

Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Plaintiff did not object in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews his legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 15) as the findings of this Court. It is therefore **ORDERED** that this case is **DISMISSED**, without prejudice, for failure to exhaust administrative remedies.

So **ORDERED** and **SIGNED** this **6th** day of **April, 2021**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE